

REMARKS

Applicant submits this Amendment in response to the office action mailed May 3, 2007. By way of this Amendment, claims 1-6 are currently amended and claims 7-9 are added for examination on the merits.

No fees are believed to be due for proper entry and consideration of this Amendment.

In light of the foregoing amendments to the claims and the following remarks, Applicant respectfully submits that the present application is in condition for allowance.

CLAIM OBJECTIONS

Claim 6 stands objected to because the office action states that the term “and” should be replaced with the term “where.” Applicant respectfully disagrees with the office’s suggestion, and has amended claim 6 herein as follows:

“A method according to Claim 1, ~~and~~ further comprising
heating up the hot water synchronously with the withdrawal.”

Applicant submits that this is the proper wording because the step of “heating up the hot water” is not present in claim 1. This amendment does not alter the scope of claim 6, but rather, merely replaces the term “and” with the equivalent, more commonly used phrase, “further comprising.”

Reconsideration and withdrawal of this objection is respectfully requested.

CLAIM REJECTIONS – 35 U.S.C. §112

Claims 1-6 stand rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter of the present application. Specifically, the office action alleges that “[t]he phrases ‘different drink units’, and ‘multiple number of drink units’ are unclear...” The office stated that “it is unclear if the phrases are to indicate different drink units of the same type of drink, and/or different drink units of different types [of] drinks.”

Initially, Applicant has amended claim 1 to consistently recite a “multiple number of different drink units...” This amendment to claim 1 is not a narrowing amendment, but rather, merely made to more particularly point out and distinctly claim the subject matter of the application.

The phrase “multiple number of different drink units,” as recited in the claims of the present application, are intended to include both, different types of drinks, as well as different sizes of the same types of drinks.

Paragraph [0017] of the originally filed specification states that “[e]ach drink dispensed in a preparation and dispensing cycle is defined as a ‘drink unit’ – consequently, for example, a small cup of espresso [sic], a glass of tea, a pot of coffee, a shot of steam, etc.” Additionally, paragraph [0011] of the specification supports this proposition by describing that the “dispensing machine 1...can prepare and dispense a large number of drinks, such as normal coffee, espresso [sic], tea, a shot of steam for forming foam, etc. in amounts of different sizes (pot, cup, small cup, glass, etc.).”

Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

CLAIM REJECTIONS – 35 U.S.C. §102

Claims 1-6 stand rejected under 35 U.S.C. §102(b) as allegedly anticipated by Eglise et al. (U.S. Patent No. 5,597,506). Applicant respectfully traverses this rejection.

Initially, Applicant submits that claim 1 has been amended herein to more particularly point out and distinctly claim a method for controlling a drink preparation machine, wherein the control is based on a performance status of the hot water source. Amended claim 1 recites:

...controlling the hot water withdrawal by
 enabling the hot water withdrawal for all of the multiple
 number of different drink units at a predetermined full
 performance status of the hot water source,
 blocking the hot water withdrawal for all of the multiple
 number of different drink units at a predetermined zero
 performance status of the hot water source and,
 blocking the hot water withdrawal for a first number of
 predetermined drink units of the multiple number of different
 drink units and enabling the hot water withdrawal for a second
 number of predetermined drink units of the multiple number of
 different drink units at a predetermined partial *performance*
 status of the hot water source.

This is not a narrowing amendment, but rather, an amendment to clarify the subject matter previously recited.

No prior art of record teaches, suggests, or discloses, such a method.

As recited in the originally-filed claims and clarified by the amendments made herein, the present invention is directed to a method of controlling a drink dispenser based on the performance status of a hot water source. The performance status of the hot water source is defined by three levels, i.e., a full performance status, a zero performance status, and a partial performance status. When the hot water source is in its full performance status, withdrawal of water for each of the available drink units is unrestricted. When the hot water source is in its zero performance status, the release of water is completely blocked such that no beverage demand can be satisfied for any drink units. Finally, when the hot water source is in its partial performance status, demand for some drink units is blocked, e.g., beverages requiring a large volume of hot water, but demand for other drink units is enabled, e.g., beverages requiring a smaller volume of hot water.

Eglise et al. do not teach such a method. Eglise et al. describe a beverage dispensing machine which includes the ability to alter machine characteristics by means of the usual beverage select buttons and the ability to diagnose machine faults without the need for additional fault indicating displays.

The machine disclosed by Eglise et al. includes a visual display means for displaying, during the drink dispensing mode, whether or not a selected beverage is available for dispensation (col. 1, lines 37-45). The visual display means consists of one or two indicator lamps which in the beverage dispensing mode indicate that the beverage is available for selection by means of its associated key (col. 1, lines 56-59). The only basis for determining whether a specific beverage is available, or not, is the amount of cups within the stack of cups stored in the machine for dispensing that particular beverage (col. 1, lines 59-62; col. 2, lines 17-21; col. 6, lines 2-4).

While the machine disclosed by Eglise et al. includes a water heater and a plurality of sensors including hot and cold water level sensors, Eglise et al. do not disclose anywhere how the sensors are controlled, or how the machine is controlled by the sensors. Eglise et al. merely disclose that the purpose of these sensors is to provide signals in the event a machine fault is diagnosed (col. 5, lines 10-12).

Thus, Eglise et al. provide no disclosure of controlling the machine based on the performance status of the hot water source and, more particularly, Eglise et al. provide no disclosure of a partial performance status of the hot water source at all. Thus, Eglise et al. cannot anticipate the claims of the present application.

Applicant respectfully requests reconsideration and withdrawal of this anticipation rejection.

NEW CLAIMS

As mentioned, new claims 7-9 are added herein for examination on the merits. Support for new claims 7-9 may be found in paragraphs [0018] and [0022] of the originally filed specification, for example. Accordingly, no new matter has been added.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. If there is any remaining issue that the office believes may be remedied via telephone conference, Applicant invites the Examiner to contact the undersigned at (312) 474-6300.

Dated: July 31, 2007

Respectfully submitted,

By /Michael P. Furmanek # 58,495/
Michael P. Furmanek
Registration No.: 58,495
MARSHALL, GERSTEIN & BORUN LLP
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357
(312) 474-6300
Attorney for Applicant